

CAL J. POTTER, III, ESQ.  
Nevada Bar No. 1988  
C. J. POTTER, IV, ESQ.  
Nevada Bar No. 13225  
POTTER LAW OFFICES  
1125 Shadow Lane  
Las Vegas, Nevada 89102  
Ph: (702) 385-1954  
Fax: (702) 385-9081  
cpotter@potterlawoffices.com  
cj@potterlawoffices.com

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ADAM BROOKS,  
Plaintiff,

Case No: 2:14-cv-374-GMN-GWF

vs.

CITY OF HENDERSON;  
CHIEF JAMES WHITE, individually  
and in his capacity as Interim Chief of  
the Henderson Police Department;  
OFFICER JOSEPH W. EBERT,  
individually; DOES 1 through 10,  
inclusive,

Defendants.

**STIPULATION AND ORDER TO EXTEND DISCOVERY**

**(Second Request)**

Pursuant to LR 6-1 and LR 26-4, the parties, by and through their respective counsel of record, hereby stipulate and request that this Court extend discovery in the above-captioned case for ninety (90) days, up to and including Tuesday, February 23, 2016.

In addition, the parties request that rebuttal expert disclosures<sup>1</sup>, dispositive motions and

<sup>1</sup>The parties recognize that they are requesting an extension of the expert disclosure deadline inside of the twenty-one (21) day period as set forth in LR 26-4. As such, the parties submit that excusable neglect exists to permit granting the instant requested extension. In evaluating excusable neglect, the court considers the following factors: (1) the reason for the delay and whether it was in the reasonable control of the moving party, (2) whether the moving party acted in good faith, (3) the length of the delay and its potential impact on the proceedings, and (4) the danger of

1 pretrial order be extended in accordance with the discovery extension as outlined herein. In  
2 support of this Stipulation and request, the parties state as follows:

3 **A. DISCOVERY COMPLETED TO DATE**

4 The Plaintiff and Defendant Officer Joseph W. Ebert have exchanged their initial  
5 disclosures.

6 Plaintiff has propounded Interrogatories and Requests for Production on Defendants.

7 Defendants have disclosed and expert witness.

8 **B. DISCOVERY REMAINING**

9 The following recitation of discovery to be completed is not intended to be limiting, but it  
10 is set forth to advise the Court of the current remaining discovery. The parties must conduct the  
11 following discovery:

- 12 • The outstanding written discovery must be answered.
- 13 • Party and third-party depositions.
- 14 • Expert and rebuttal expert depositions.
- 15 • Expert and rebuttal expert disclosures.
- 16 • The parties need to continue supplementing documents.

17 **C. WHY SUCH REMAINING DISCOVERY HAS NOT BEEN COMPLETED**

18 The parties aver, pursuant to Local Rule 6-1, that good cause exists for the requested  
19 extension. The parties agree that, pending this Court's approval, extension of remaining discovery  
20 deadlines is appropriate.

21 The parties have been unable to schedule depositions necessary for expert reports because  
22 of conflicting schedules and the scheduling of depositions in older cases, which were also delayed  
23 due to scheduling difficulties. However, the parties are continuing to work on discovery together  
24 without Court intervention and/or motions to compel.

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25 prejudice to the nonmoving party. *See, Pioneer Inv. Servs. Co. v. Brunswick Assocs.*, 507 U.S. 380, 395 S. Ct. 1489,  
26 123 L.Ed.2d 74 (1993). Twenty-one (21) days ago the parties believed they were on track for the expert disclosure  
27 deadline. However, in order for the experts to produce meaningful reports, additional discovery must be completed,  
28 specifically depositions, which the parties were unable to set due to conflicting schedules. This extension request is  
made in good faith, jointly by the parties, and not for the purposes of delay. Trial in this matter has not yet been set.  
Moreover, since this request is a joint request, neither party will be prejudiced.

This extension request is made in good faith, jointly by the parties, to allow the parties to conduct the discovery necessary in this matter. Trial in this matter has not yet been set and dispositive motions have not yet been filed. As such, this extension will not delay this case. Moreover, since this request is a joint request, neither party will be prejudiced. In fact, the extension will benefit the parties in allowing them to properly litigate their case.

**D. CURRENT AND PROPOSED DISCOVERY DEADLINES**

<u>SCHEDULED EVENT</u>	<u>CURRENT DEADLINE</u>	<u>PROPOSED DEADLINE</u>
Interim Status Report	Wed., November 25, 2015	Tuesday, February 23, 2016
Disclose Experts	Wed., November 25, 2015	Tuesday, February 23, 2016
Rebuttal Experts	Monday, December 28, 2015	Friday, March 25, 2016
Discovery Cut-Off	Monday, January 25, 2016	Friday, April 22, 2016
Dispositive Motions	Wed., February 24, 2016	Tuesday, May 24, 2016
Pretrial Order	Monday, March 28, 2016	Friday, June 24, 2016

This is the second request for extension of time in this matter. This request for an extension of time is not sought for any improper purpose or other purpose of delay. Rather, it is sought by the parties solely for the purpose of allowing sufficient time to conduct discovery in this case and adequately prepare their respective cases for trial. The parties respectfully submit that the reasons set forth above constitute compelling reasons for the extension.

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1 WHEREFORE, the parties respectfully request that this Court extend the discovery  
2 period as outlined in the table above.

3 APPROVED AS TO FORM AND CONTENT.

4 DATED this 25<sup>th</sup> day of November, 2015.

DATED this 30<sup>th</sup> day of November, 2015.

5 POTTER LAW OFFICES

CITY OF HENDERSON

6 By /s/ Cal J. Potter, III, Esq.

By /s/ Nancy D. Savage, Esq.

7 CAL J. POTTER, III, ESQ.

NANCY D. SAVAGE, ESQ.

8 Nevada Bar No. 1988

Nevada Bar No. 392

9 C. J. POTTER, IV, ESQ.

240 Water Street

10 Nevada Bar No. 13225

Las Vegas, Nevada 89101

11 1125 Shadow Lane

*Attorney for Defendant Officer Ebert*

12 Las Vegas, NV 89102

13 *Attorneys for Plaintiff*

14 **ORDER**

15 IT IS SO ORDERED.

16 December 1, 2015

17 DATED



18 GEORGE FOLEY, JR.

19 United States Magistrate Judge  
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